IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Tek Chand Vs. Smt. Saroj

S.B.CR.MISC. PETITION NO.1541/2006

DATE OF ORDER :: December 01, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Kalu Ram Bhati, for the petitioner.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt.18.11.2005 passed by the Judicial Magistrate Ist Class, Padampur (for short 'the trial court' hereinafter), whereby the trial court granted monthly allowance of interim maintenance at the rate of Rs.1000/- per month in favour of non-petitioner and against the petitioner.

I have heard learned counsel for the petitioner. Perused the order impugned.

It is contended by the learned counsel for the petitioner that the petitioner is not earning anything, on the contrary, he renders the services to the Gurus in certain temples.

On the perusal of the order impugned, it appears that the non-petitioner came with a case that the petitioner is having a saw machine and 10 shops, he is undertaking the work of manufacturing of furniture and as such his monthly income is Rs.15,000/-, whereas the non-petitioner is a housewife having no source of income. The trial court keeping in view the pleadings of the parties, granted monthly allowance of interim maintenance at the rate of Rs.1000/- per month in favour of the non-petitioner. In my view, at this stage, it cannot be said that the granting monthly allowance of interim maintenance is erroneous for the reasons that the parties yet to lead evidence and it is for the trial court to decide on the basis of evidence adduced by the parties at the stage of deciding the main application. In the circumstances, therefore, no case for interference is made out.

The petition is, therefore, dismissed. However, the trial court is directed to dispose of the main application filed by the non-petitioner under section 125 Cr.P.C. utmost expeditiously preferably within six months from the receipt of copy of this order.

[H.R.PANWAR],J.

m.asif/-